

REMARKS

A. The above-requested amendments to pages 37, 38 and 193 of the specification have been made in order to expressly incorporate into the instant U. S. Application Serial No. 07/713,624 the full text of the specification of US Patent Application Numbers 06/617,321 and 07/242,482 heretofore incorporated by reference in the instant application at page 37, line 24 and page 38, line 1.

Pursuant to MPEP §608.01(p) (rev. 15, Aug. 1993), a Declaration executed by Thomas J. Macpeak, an attorney representing the applicants by virtue of an Associate Power of Attorney, stating that the amendatory material consists of the same material previously incorporated by reference in the instant application.

B. The above-requested amendments to pages 124 and 125 of the specification are made in order to remove disclosures which, after review during Interference No. 103,324, may contain incorrect interpretations of test data. A Declaration of Dr. Keith A. Walker under 37 C.F.R. §1.132, explainnig applicants' best present interpretation of the data, accompanies this amendment.

1. The material to be deleted on page 124 of the specification indicates that "clone" 103 was determined to be a chimeric plant. This interpretation was based on assay data indicating that one leaf from plant 103 possessed insecticidal activity while four other leaves did not have insecticidal activity. However, a subsequent detailed analysis of the test data indicates that plant 103, while expressing the genetic

transformation markers, did not express the *B.t.* toxin protein. The requested amendment to the specification is intended to reflect applicants' revised interpretation of the test data.

Deletion of the material on page 124 does not affect the enablement of the claims. Therefore, the requested amendment does not constitute new matter.


2. The material to be deleted on page 125 of the specification discloses the detection on a northern blot of an about 1.7 kbp mRNA fragment in *B.t.* transformed cells, rather than the expected 3.8 kbp fragment for full-length *B.t.* mRNA transcripts. Initially, the 1.7 kbp fragment was considered to be sufficient to encode the toxic portion of the crystal protein. However, review of the test data during Interference No. 103,324 suggests that the 1.7 kbp fragment is more properly interpreted as an artifact in the screening procedure. The requested deletion of the specified material on page 125 of the specification is intended to better reflect applicants' present understanding of the test data.

The requested amendment to page 125 of the specification does not affect enablement of the claims because there are several methods other than northern blot analysis by which one skilled in the art could detect the expression of the insecticidal portion of the *B.t.* crystal protein. For example, one of ordinary skill in the art could readily detect the presence of the *B.t.* crystal protein through DNA, protein, and/or bioassay analyses. In sum,

the interpretation of the data containing the 1.7 kbp mRNA fragment does not affect the enablement of the claims, but should be deleted to clarify the nature of applicants' disclosure. Accordingly, the requested amendment does not constitute new matter.

C. Any inquiry concerning this communication should be directed to the undersigned at the telephone number listed below.

Respectfully submitted,



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